



1120 Connecticut Avenue, NW
Washington, DC 20036

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Nessa Feddis
Senior Federal Counsel
Phone: 202-663-5433
nfeddis@aba.com

By electronic delivery

17 September 2004

Ms. Jennifer J. Johnson
Secretary
Board of Governors
of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, D.C. 20551

Re: Docket No. OP-1209
Request for information re information reported
to consumer reporting agencies
69 *Federal Register* 48404, 10 August 2004

Dear Ms. Johnson,

The American Bankers Association ("ABA") appreciates the opportunity to provide to the Federal Reserve Board ("Board") information on a number of issues related to the prompt investigation, completeness, and correction or deletion of information reported to credit reporting agencies. The Board is requesting information for a study it is conducting pursuant to section 313(b) of the Fair and Accurate Credit Transactions Act of 2003, on investigations by furnishers of consumer information to consumer reporting agencies when that information is disputed.

The ABA brings together all categories of banking institutions to best represent the interests of this rapidly changing industry. Its membership – which includes community, regional, and money center banks and holding companies, as well as savings associations, trust companies, and savings banks – makes ABA the largest banking trade association in the country.

Generally, while the vast majority of disputes about information furnished to consumer reporting agencies are received directly from consumer reporting agencies rather than consumers, banks treat all disputes similarly, investigating promptly and within the Fair Credit Reporting Act ("FCRA") timeframes. In many cases, the process of receiving disputes from consumer reporting agencies and responding is automated and works well. The consumer reporting agencies and the furnishers continue to seek improvements in all aspects of the consumer reporting process, including prompt resolution of disputes. ABA strongly

discourages any new requirements such as new forms or notices as they are unnecessary and will only add to the increasing regulatory burden.

General information

The Board asks what type of entities report negative and positive information to consumer reporting agencies. Our studies show that the vast majority of banks report both positive and negative information to consumer reporting agencies. A small percentage of the very smallest institutions only report negative information. The reasons why this small percentage only reports negative information are unclear, but it may relate to traditional practices and the burdens associated with creating files to submit.

Banks report that the vast majority of disputes about information furnished to consumer reporting agencies come through a consumer reporting agency. Ninety percent is a common figure reported, though small institutions report they receive few if any disputes directly. It is to be expected that most disputes would come through consumer reporting agencies, as consumers typically learn of any errors when they receive a consumer report and logically submit information to that entity. Consumers are also more likely to file a dispute with the consumer reporting agencies when there is more than one dispute because it may be more efficient for them to do so.

Disputes communicated by consumer directly to furnishers.

Most banks provide contact information for general consumer inquiries and complaints, that includes a toll-free number or postal or e-mail address, or a combination of these. These points of contact handle disputes about information the bank is providing to consumer reporting agencies in addition to other complaints and inquiries. Few banks dedicate a single contact point for resolving disputes about information provided to consumer reporting agencies, as they represent a small percentage of inquiries and disputes, so a dedicated point of contact is not justified. Moreover, it makes little sense for furnishers to disclose a point of contact dedicated to consumer reporting information disputes, because contact information would have to be provided in the initial disclosures or on the periodic statement, which is not how or when a consumer usually learns of potential inaccuracies being reported. Rather, they learn of potential inaccuracies when they receive and review a consumer report.

When a consumer disputes information being reported to a consumer reporting agency directly with the bank, banks generally handle the dispute as they would if it had been received from the consumer reporting agency. Whether or not accurate, most consumers believe that they are entitled to dispute information being reported with the furnisher directly, and because of customer service pressures, banks investigate

and attempt to resolve the dispute as soon as possible, usually within 7 to 20 days, and no later than 30. Corrected information is then provided to the consumer reporting agency.

The Board asks whether consumers provide sufficient relevant information to the furnisher. Experience varies among banks, depending on the type of credit involved, but banks report that typical examples of missing information include: the complete account number, original or payoff date of the credit, the specific period under dispute, and complete personal information including the Social Security number. If the information is incomplete, they send a request to the consumer to provide the missing information. Some banks, card issuers, for example, may have special forms once the consumer has initiated the dispute. For some institutions, including many small institutions, most of the disputes are submitted by telephone, allowing the bank to obtain the necessary information at the time of the telephone call.

Other furnisher duties.

The Board asks how furnishers ensure that they comply with the applicable statutory requirements regarding the accuracy and completeness of information they report to consumer reporting agencies. Banks rely on their own records to submit information in an automated fashion, using the codes, forms, and formats required by the consumer reporting agencies. The files (tapes) are then submitted to the consumer reporting agencies on a monthly basis and uploaded to their systems. If there are any corrections, banks include them in the monthly reports. Banks generally test their systems during conversion and validate them periodically to ensure that information reported is accurate and complete. For example, they test that payments are applied accurately and delinquencies reported correctly. Small institutions may use third party contractors to handle their reports.

As noted earlier, banks generally handle disputes received directly from consumers in the same manner as those received from consumer reporting agencies. Some may require that disputes be submitted in writing. Others may handle most by telephone. They generally employ the same procedures for investigation and reporting corrections and do so within the same time frames.

If a consumer voluntarily closes an account, that information is automatically sent, using appropriate codes, with the next monthly file submitted to the consumer reporting agency.

Disputes communicated by consumers to consumer reporting agencies.

Consumer reporting agencies ensure that furnishers comply with the timelines established under the FCRA for disputes communicated to a consumer reporting agency by indicating a “respond by” date.

The Board asks what the furnisher’s procedures and timelines for investigating disputes and reviewing the information provided. Banks make all efforts to investigate and respond as promptly as possible, addressing disputes in order of “respond by” date.

While it is not clear what percentage of banks use the consumer reporting agencies’ automated dispute resolution system, E-Oscar, a growing number do. That system uses dispute type codes to identify the nature of the dispute in order to guide the furnisher in its investigation. After investigating, furnishers respond with the appropriate automated code, either verifying that the information is correct, or providing corrected information.

The E-Oscar system has the advantage of expediting the dispute process so that furnishers and consumer reporting agencies can comply with the tight deadlines of FCRA. However, by nature, an automated system means less information can be transmitted and considered. In some cases, the dispute codes lack sufficient specificity of the nature of the dispute, sometimes because the consumer has provided insufficient information. In those cases, the furnisher relies on its own internal information and process to investigate. However, overall, the system works fairly well.

The consumer reporting agencies, with input from furnishers, continually review and adjust the system, balancing the need to respond quickly and within the FCRA timeframes with the need to transmit sufficient detail about the nature of the dispute. In addition, there is a recognition that the number of codes must be practical for those who assign the dispute codes and those who must interpret them. We also understand that E-Oscar may soon be able to scan materials, such as a consumer’s letter, and transmit them to the furnisher.

If the consumer and bank fail to agree about information the bank is furnishing to consumer reporting agencies, the bank may explain to the consumer the reasons for its decision and advise the consumer of the FCRA right to include a dispute notice in the consumer’s report. We do not have any data to show how often furnishers and consumers continue to disagree with the accuracy of information being reported after a dispute has been investigated.

The Board asks whether legislative or regulatory changes might be helpful. At this time, we do not believe legislative or regulatory changes would be appropriate. The dispute, investigation, and resolution systems are dynamic and any legislative or regulatory interference would simply impede improvements. While there may be some weaknesses in the

current system, we believe both the consumer reporting agencies and the furnishers have demonstrated their commitment to create a better system, through the adoption of automated systems to report information and resolve disputes more quickly and more accurately. They are continuing those efforts to improve the consumer reporting system. We also strongly discourage any new requirements, including new forms or notices. They are unnecessary and will only add to the growing regulatory burden particularly for small institutions.

ABA appreciates the opportunity to provide information on these issues relating to the prompt investigation, completeness, and correction or deletion of information reported to credit reporting agencies. We are happy to provide any additional information.

Regards,

A handwritten signature in black ink, reading "Nessa E. Feddis". The signature is written in a cursive, flowing style with a large initial 'N' and 'F'.

Nessa Eileen Feddis